

§ 983.71 Relationship with the California Pistachio Commission.

In conducting committee activities and other objectives under this part, the committee may deliberate, consult, cooperate and exchange information with the California Pistachio Commission. Any sharing of information gathered under this subpart shall be kept confidential in accordance with provisions under section 10(i) of the Act.

Subpart—Rules and Regulations**§ 983.138 Samples for testing.**

Prior to testing, a sample shall be drawn from each lot and divided into two subsamples to be used to test pistachios for aflatoxin and for minimum quality. The lot subsamples shall be of sufficient weight to comply with Tables 1 and 2 of § 983.38 and Table 4 of § 983.39: *Provided*, That lots of pistachios which are intended for dyeing or color-coating shall be sampled for minimum quality after the dyeing or color-coating process.

[70 FR 61226, Oct. 21, 2005]

§ 983.141 Procedures for exempting handlers from minimum quality testing.

(a) *Exemption procedures.* The Committee, or its duly authorized agents, shall notify all handlers each year of the opportunity to apply to be exempted from minimum quality testing and handlers shall submit such requests on forms furnished by the Committee. The deadline for submission shall be August 1. The Committee, or its duly authorized agents, shall:

(1) Promptly review all exemption applications received. In reviewing applications for exemption, the Committee, or its duly authorized agents, shall determine that the quantity of assessed weight pistachios handled during the prior production year was less than 1 million assessed weight pounds and that the applicants are in compliance with the order's reporting requirements and the provisions of § 983.41. Handler compliance will be determined through handler audits;

(2) Complete the review and approve or disapprove requests for exemptions by August 20;

(3) Maintain complete files detailing the reason(s) for the approval or disapproval of each application for at least three years beyond the crop year of applicability; and

(4) Notify in writing all applicants by August 30 of the approval or disapproval of their requests together with the reason(s) for disapproval, if applicable.

(b) *Revocation of exemptions.* A handler's exemption shall be revoked by the Committee, or its duly authorized agents, if the handler fails to provide reports required under § 983.147, or has not complied with the provisions on minimal quality testing in § 983.41, of this part. Additionally, the Committee, or its duly authorized agents, shall revoke an approved exemption when a handler audit reveals that a handler has handled a million pounds or more of assessed weight pistachios during the current production year. The revocation of a handler's exemption shall be made in writing to the handler and shall specify the reason(s) for and the effective date.

(c) *Appeals.* (1) Any handler who believes that he/she has been improperly denied an exemption or improperly had an exemption revoked, may appeal to the Secretary, within 20 days after notification of the Committee's, or agents of the Committee's, decisions. All appeals shall be in writing. When requested by the Secretary, the Committee, or its duly authorized agents, shall forward a file with all pertinent information related to any handler appeal. The Secretary shall inform the handler and all interested persons of the Secretary's decision.

(2) If handlers do not file an appeal or if their appeal is denied by the Secretary, they shall present all remaining lots of pistachios in inventory for minimum quality testing before moving the pistachios into the channels of commerce.

[70 FR 42259, July 23, 2005]

§ 983.143 Reinspection.

(a) Any lot of inshell pistachios that is pin-picked, hand-sorted, color-sorted, and/or resized is considered to be "materially changed." Pistachios which are roasted, salted, flavored, air-legged, dyed, color-coated, cleaned, and